



**Request for Proposal TITLE PAGE**  
**Include This Page as the First Page in Your Proposal Response**

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**City of Lynchburg, Virginia**  
**Procurement Division**

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**Auctioneer Services of City Owned Surplus Property**

This is the City of Lynchburg's Request for Proposal No. 05-06, issued **July 10th, 2006**. Direct inquiries for information to: Deborah Powell; Phone: 434-455-3841; Fax: 434-845-0711. All responses to this solicitation shall be in strict accordance with the requirements set forth in this proposal document and the ensuing contract documents.

A pre-proposal meeting will be held at Armstrong Laurel School off Bedford Avenue at **11:00 a.m. Wednesday, July 26, 2006**.

All requests for clarification of or questions regarding this request for proposal must be made in writing, by facsimile (434) 845-0711 or email to [deborah.powell@lynchburgva.gov](mailto:deborah.powell@lynchburgva.gov) and received by **3:00 p.m., Wednesday August 9, 2006**. Any alteration or changes to this request for proposal will be made only by written addendum issued by the City of Lynchburg, Procurement Division.

Sealed proposals will be publicly accepted prior to **3:00 p.m., Wednesday, August 16, 2006**. Proposals received after the stated due date and time shall not be considered. Submit proposals in a sealed envelope, and put the bid number, title, due date and time on the lower left front. Offerors are responsible for having their proposals stamped by Procurement Division staff before the deadline indicated above and acknowledge all addenda so issued in the space provided below. All Offerors are responsible for obtaining issued addenda from the City's Purchasing Division website: [www.lynchburgva.gov/home/index.asp?page=981](http://www.lynchburgva.gov/home/index.asp?page=981).

Acknowledge receipt of addenda here: No. \_\_\_\_ Date: \_\_\_\_

**Information the Offeror deems Proprietary is included in the proposal response in section(s):** \_\_\_\_\_  
See Paragraph 2 on page 2 for guidelines on submitting proprietary information.

Submit Bids: BY MAIL, GROUND DELIVERY, OR HAND DELIVER TO:  
Procurement Division  
Third Floor City Hall  
900 Church Street  
Lynchburg, Virginia 24504

In compliance with this request for proposal and all the conditions imposed therein, the undersigned offers and agrees to furnish the services in accordance with the attached documents. By my signature below, I certify that I am authorized to bind the Offeror in any and all negotiations and/or contractual matters relating to this request for proposal. Sign in ink and type or print requested information.

Full Legal Name of Offeror: \_\_\_\_\_

Fed ID OR SOC. SEC. NO.: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_  
Typed or Printed Name, Title

Deborah J. Powell, VCO  
City Buyer's Signature

## **A. SUBMISSION OF PROPOSALS**

- 1) An original (1), so marked, and three (3) copies of your proposal documents, are required. Failure to comply with requirements of this request for proposal shall be grounds for the City to reject such offers. Telegraphic or facsimile submission of proposals is not acceptable and any such proposals will not be considered. Nothing herein is intended to exclude any responsible Offeror or in any way restrain or restrict competition. All responsible Offerors are encouraged to submit proposals.
- 2) Submission of Proprietary Information: Trade secrets or proprietary information submitted by an Offeror in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however the Offeror must invoke the protection of this section prior to or upon submission of the data or the materials, and must identify the data or other materials to be protected and state the reason why protection is necessary (Section 2.2-4342F of the Code of Virginia). **Offerors shall submit, in a separate section of the proposal, any information considered proprietary and any copyrighted material and clearly identify the information as proprietary and/or copyrighted information. Offerors may not declare their entire proposal proprietary nor may they declare proposed pricing to be proprietary.** References may be made within the body of the documents to proprietary information; however all information contained within the body of the documents not in the separate section labeled proprietary shall be considered Public Information.
- 3) Proposals having any erasures or corrections must be initialed by the Offeror in ink.
- 4) The City reserves the right to accept or reject any or all proposals, to waive informalities, and to reissue any request for proposals and to award contracts to multiple Offerors. Any contract resulting from this request for proposal shall not be exclusive to the Successful firm. The City reserves the right to contract with firms not party to the resultant contract for similar work if it determines this to be in their best interest.
- 5) By submitting a proposal, the Offeror agrees that the proposal response will not be withdrawn for a period of 90 days following the due date for proposal responses.
- 6) By submitting a proposal, the Offeror certifies that it has not combined, conspired or agreed to intentionally rig, alter or otherwise manipulate, or to cause to be rigged, altered or otherwise manipulated its proposal for the purpose of allocating purchases or sales to or among persons, raising or otherwise fixing the prices of the goods or services, or excluding other persons from dealing with the City.
- 7) By submitting a proposal, the Offeror certifies that its proposal is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontracting firm in connection with its bid; and that it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised.
- 8) The City will not be responsible for any expense incurred by any Offeror in preparing and submitting a proposal. All proposals submitted will become the property of the City.

## **B. GENERAL INFORMATION AND OBJECTIVE**

**Scope of Services** - The City of Lynchburg is seeking proposals to secure an auction firm to promote and conduct an absolute auction of tangible surplus property owned by the City of Lynchburg including office furniture and equipment, lawn and garden equipment, auto supplies, electrical and electronics, etc. *A wide variety of factors determine the gross proceeds, from the weather to the auction firm's methodology in promoting the sale; therefore, gross proceeds at sales are subject to variances beyond the City's control. The City of Lynchburg does not make any express or implied guarantees regarding the amount of profit that the successful firm will receive as a result of a subsequent contract.*

1. The successful auction company will put forth all effort necessary to provide/perform the following services:
  - ✓ Preparing and mailing a flyer to notify the public of the auction, and providing the Office of Procurement with a copy of this flyer prior to mailing

- ✓ Placing classified advertisements in the Lynchburg News & Daily Advance, as well as in any local newspapers and publications necessary to ensure optimal turnout
- ✓ Lotting and tagging of all surplus property at least 2 days prior to auction
- ✓ Completing a printed inventory
- ✓ Developing handouts for bidders listing items with lot numbers
- ✓ Actual auctioneering on the designated date
- ✓ Staff to facilitate all auction functions, including security of the property at the sale
- ✓ Collecting applicable sales tax when receiving payment for goods and remitting the sales tax to the appropriate tax department
- ✓ An official tally of total proceeds at the end of the auction day
- ✓ Any associated services to assure a successful auction
- ✓ Final settlement within 7 business days of the auction date. All fees will be deducted from gross sales, and a check will be remitted to the City of Lynchburg, along with a full accounting of each sale to the Procurement Division.

2. Mandatory Requirements:

- ✓ Compliance with all applicable terms of this RFP and the subsequently negotiated contract.
- ✓ Compliance with all applicable standards of the associated profession.
- ✓ Compliance with all applicable Federal, State, and local laws.

**C. SOLICITATION SCHEDULE**

<u>DATE</u>	<u>SCHEDULE OF ITEMS</u>
July 10, 2006	Issue Request for Proposal
July 26, 2006	Pre-Proposal meeting at 10:00 a.m.
August 6, 2006	Deadline for Submitting Questions/Requests for Clarification
August 16, 2006	Proposals are Due Prior to 3:00 p.m.

**D. PREPARATION**

The proposal response should address the items included in the Scope of Services and the Criteria for Proposal Evaluation. Proposals should be prepared simply, providing straightforward and concise responses to requests for information and descriptions of qualifications and capabilities. Each copy of the proposal should be bound with all documentation in a single volume where practical. Failure to do so will result in a lowered evaluation. Incomplete proposals may be determined non-responsive.

Offerors should organize their proposals using the format described below:

- 1) Title page - Furnish the information requested on the **REQUEST FOR PROPOSALS TITLE PAGE** of this solicitation and include it as the first page of your proposal response. The name stated on the Title Sheet must be the full legal name of the Offeror and the address must be that of the office which will have the responsibility for the services provided. **Offeror's shall specify in the introductory cover sheet the section(s) containing trade secrets or proprietary information.**
- 2) Project Methodology and Percentage of Gross Proceeds - Briefly describe your firm's general approach to providing these services (use exhibit if appropriate).
- 3) Project Schedule - Provide a timeline and schedule applicable for the proposed project.
- 4) Experience of the Offeror in Providing this Service - Include a brief statement of the Offeror's experience in providing the services stated in the Scope of Services. If any subcontractor firms will be used, they should be identified and their qualifications included in the proposal response. Include experience of key individuals to be assigned to this contract, emphasizing their experience in working with similar contracts and local governments. Show only experience directly related to their assigned duties under the proposed contract.
- 5) References - Provide a list of clients for whom similar services have been provided and dates when the service was provided. Include client name, address, telephone number, facsimile number, description of type of services performed, and person the City may contact.
- 6) Insurance - The selected firm shall be required to maintain in force such insurance, in amounts acceptable to the City, as will protect himself and the City from claims which may arise out of or result from the execution of the work, whether such execution be by himself, his employees, agents,

subcontractor firms or by anyone for whose acts any of them may be liable. This coverage should include, at a minimum, Worker's Compensation, General Liability (including premises/operations, independent successful firms, products and completed operations, contractual liability and personal injury liability) and Automobile Liability. All insurance shall be provided by companies authorized to conduct business in the Commonwealth. The selected firm shall furnish the City with an original Certificate of Insurance upon request. The Certificate should name the City as additional insured. The selected firm shall notify the City at least 30 days prior to policy cancellation, non-renewal or reduction of coverage.

Acknowledgement of the offeror to provide this Certificate shall be submitted in the response on the Insurance Requirements Form.

7) Limited Liability Form - Complete attached form

**E. METHOD OF AWARD**

Proposals will be evaluated and interviews scheduled with selected firms in accordance with the provisions of competitive negotiation in compliance with Code of Virginia sec. 2.2-4301 (3.a).

Following evaluation of the written proposals as submitted, selection shall be made of two or more Offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, and respondents ranked 1, 2, 3 or more. Negotiations shall then be conducted with the firm ranked number 1 in an attempt to reach an agreement to provide the services. After negotiations have been conducted with the top ranked firm, an agreement cannot be reached, negotiations will be terminated with that firm, and negotiations began with the firm ranked number 2. This procedure will continue until an agreement is reached or negotiations are terminated and the services re-solicited. Should the City determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

Upon making an award, or giving notice of intent to award, the City will place official notice on its Purchasing Division Web site and place appropriate notice on the public bulletin board located outside of the Purchasing Division Office, located on the third floor of City Hall.

**F. CRITERIA FOR PROPOSAL EVALUATION**

The following criteria will be used in the evaluation and rating of proposals for the selection of an Auctioneer for the proposed project:

1. Firm's experience in conducting municipal or public auctions.
2. Number and experience of staff to facilitate this project.
3. Your approach to achieving the City's objective of disposal of public owned surplus property.
4. Percentage of gross proceeds charged the City of Lynchburg for performing these services.

**G. SOLICITATION DEBRIEFING**

The competitive negotiation process requires that the content of all offers made subject to this solicitation be kept confidential until official posting of the City's 'intent to award'. In accordance with section E above, with the exception of documents claimed as proprietary, such information may be viewed only by a submitting offeror within a 10 day period after notice of intent to award is given, and by the general public only after the award is made. The City shall not be required to give reasoning for its decision to award to the selected offeror.

**H. CONTRACT TERM**

The contract will be awarded in December and will be in place until June 30, 2008. The contract may be extended at the option of the City for two additional two-year periods.

**I. GENERAL TERMS AND CONDITIONS**

1) Subcontracting and Assignment of Work: The successful firm shall not subcontract or assign portions of the work, other than those specifically defined in the CONTRACT, without the express written consent of the City. A description of any work the Offeror proposes to subcontract shall be submitted to the City for review and approval along with the name and address of the individual, firm, or corporation

that is the proposed subcontracting firm. This submittal shall also include a list of the key personnel that the subcontractor firm will assign to the project. All work performed by any subcontractor firm shall be coordinated by the successful firm and the successful firm will be responsible to the City for all work performed by any subcontracting firm or special consultant.

- 2) Independent Successful firm: The successful firm is an independent successful firm and nothing contained in a subsequent CONTRACT shall constitute or designate such firm or any of its agents or employees as employees of the City.
- 3) Notification: Any notice required by the Contract shall be effective if given by registered mail, return receipt requested, to the Successful firm in the name and at the address given in its proposal submission; provided that change of address shall be effective if given in accordance with this paragraph. Unless otherwise specified, any notice to the City shall be given to the City of Lynchburg, Procurement Coordinator, 900 Church Street, Lynchburg, VA 24504. The Successful firm agrees to notify the City immediately of any change of legal status or of address. Any notice provided in accordance with this paragraph shall be deemed to have been completed five calendar days after the date of mailing.
- 4) Ownership of Documents: The Successful firm agrees that all information and materials gathered and/or prepared by or for it under the terms of the CONTRACT shall be delivered to, become and remain the property of the City upon completion of the work or termination of the CONTRACT. The City shall have the right to use and reproduce the data and reports submitted hereunder, without additional compensation to the Successful firm.
- 5) Laws and Regulations: The Successful firm shall abide by all Federal, State and Local laws and regulations governing the provision of the services called for in the contract. The Successful firm shall give notice and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work. Any legal proceedings arising out of or related to this agreement shall be filed by the parties in the City of Lynchburg General District Court or the Lynchburg Circuit Court.
- 6) Additional Services: The City may add to the Scope of Services or make changes in the Scope of Services any services of a similar nature to those specified in the Scope of Services of this Invitation for Bid as mutually agreed to at a price mutually agreed upon.
- 7) Severability: Each paragraph and provision of the resultant contract will be severable from the entire agreement and if any provision is declared invalid, the remaining provisions shall remain in effect.
- 8) Licenses and Permits: The Successful firm shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the work which are legally required prior to and during the work.
- 9) Nondiscrimination: If the resultant contract exceeds \$10,000, during the performance of the contract, the Successful firm agrees as follows:
  - 1) The Successful firm will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Successful firm. The Successful firm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
  - 2) The Successful firm, in all solicitations or advertisements for employees placed by or on behalf of the Successful firm, will state that such Successful firm is an equal opportunity employer.
  - 3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
  - 4) The Successful firm will include the provisions of the foregoing paragraphs 1, 2 and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontracted firm or vendor.

**10) Payment:**

Payments to the successful firm shall be made within 30 days after receipt of an approved invoice for services provided in the previous month. Backup documentation for each invoice shall be provided in detail satisfactory to the City. The successful firm's records and documentation supporting such invoices shall be made available to the City upon reasonable request. The successful firm agrees to retain all records, documents and support materials relevant to the CONTRACT for a period of five years following final payment.

In accordance with Virginia Code Section 2.2-4354 the Successful firm agrees that:

- 1)** Should any contractor be employed by the Successful firm for the provision of any goods or services under this Contract, the Successful firm agrees to the following:
  - a)** The Successful firm shall, within seven days after receipt of any payments from the City pursuant to this Contract, either:
    - 1)** Pay the subcontractor for the proportionate share of the total payment received from the City attributable to the goods or services provided by the subcontractor; or
    - 2)** Notify the City, as applicable, and the subcontractor, in writing, of the intention to withhold all or a part of the subcontractors firm's payment with the reason for nonpayment. Written notice to the City shall be given to: City of Lynchburg, Procurement Coordinator, 900 Church Street, Lynchburg, VA 24504.
  - b)** The Successful firm shall pay interest to the subcontractors firm, at the rate of one percent per month on all amounts owed to the subcontractors firm that remain unpaid after seven days following receipt of payment from the City for goods or services provided under this Contract, except for amounts withheld under subparagraph (a)(2) above.
  - c)** The Successful firm shall include in each of its subcontracts a provision requiring each subcontractors firm to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractors firm.
  - d)** The Successful firm's obligation to pay an interest charge to a subcontractors firm shall not be an obligation of the City.
  - e)** No contract modification shall be allowed for the purpose of providing reimbursement for these interest charges. No cost reimbursement claim shall include any amount for reimbursement of these interest charges.
- 2)** Invoice processing is to be in strict accordance with the rules and regulations set forth by the applicable Jurisdiction and the *Code of Virginia* Section 2.2-4352, requiring payment of invoices within 30 days of receipt of a proper invoice. No promises or commitments on the part of any employee of the Public Body shall bind the Jurisdiction to any other terms and/or conditions other than those set forth in procedures issued by the Public Body.
  - a)** Invoices shall be submitted to the City on a monthly basis. The City shall pay the amount of the invoice within thirty (30) days. However, the City shall have the right to verify information contained on an invoice and extend the time of payment until information is received to correct any errors found therein. The invoices submitted shall include, at a minimum, the following information:  
Project name  
City assigned Contract Number;  
Invoice number
  - b)** Payments shall not be considered as evidence of satisfactory performance of the work either in whole or in part, nor shall any payment be construed as acceptance by the City of any defective work. The City reserves the right to withhold payment in the event the City believes that the work is unsatisfactory.

**11) Contractual Claims:** Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the Successful firm's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Any notice or claim shall be delivered to the City's Procurement Coordinator, Third Floor City Hall, 900 Church Street, Lynchburg Virginia 24504 and shall include a description of the factual basis for the claim and a statement of the amounts claimed or other relief requested. The City's Procurement Coordinator shall render a decision on the claim and shall notify the Successful firm within 30 days of receipt of the claim. The Successful firm may appeal the decision of the City's Procurement Coordinator by providing written notice to the City Manager, within 15 days of the date of the decision. The City Manager shall render a decision on the claim within 60 days of the date of receipt of the appeal notice and such decision shall be final unless the Successful firm appeals the decision in accordance with the Virginia Public Procurement Act. Invoices for all services or goods provided by the Successful firm shall be delivered to the City no later than 30 days following the conclusion of the work or delivery of the goods.

**12) Taxes:** The Successful firm shall pay all City, State and Federal taxes required by law enacted at the time proposals are received and resulting from the work or traceable thereto, under whatever name levied. Said taxes shall not be in addition to the contract price as the taxes shall be an obligation of the Successful firm and not of the City and the City shall be held harmless for same by the Successful firm.

**13) Indemnification:** To the fullest extent permitted by law, the Successful firm, for itself, heirs, representatives, successors and assigns agrees to save, defend, keep harmless and indemnify the City and all of its officials, agents and employees (collectively, the "City") from and against any and all claims, loss, damage, injury, costs (including court costs and attorney's fees), charges, liability or exposure, however caused, resulting from, arising out of or in any way connected with the Successful firm's performance (or nonperformance) of the agreement terms or its obligations under this agreement.

**14) Contract Assignment:** The resultant contract may not be assigned, in whole or part, without the written consent of the City.

**15) Royalty and License Fees and Copyright, Trademark and Patent Protection:** The Successful firm shall pay all royalty and license fees relating to the items covered by the contract. In the event any third party shall claim that the manufacture, use and sales of these goods offered hereby constitutes an infringement of any copyright, trademark, or patent, the Offeror shall indemnify and hold harmless the City from any cost, expense, damage or loss incurred in any manner by the City on account of such alleged infringement.

**16) Responsibility for Property:** The Successful firm shall be responsible for damages to property caused by work performed under the CONTRACT. Property damage to surrounding or adjoining areas caused directly or indirectly by actions or omissions of the Successful firm shall be repaired or replaced by the Successful firm, to the satisfaction of the Owner, at the Successful firm's expense.

**17) Precedence of Documents:** The precedence of documents shall be as follows: the CONTRACT, the Request for Proposals and the Offeror's response to the Request for Proposals.

**18) Administrative Appeals Procedure:**

**Sec. 18.1-6. Alternative policies on protests of award or decisions to award a contract in lieu of VA. Code § 2.2-4360 through § 2.2-4362 and VA. Code § 2.2-4364:**

**a)** The following are the exclusive procedures for a bidder or offeror to protest the city's award or decision to award a contract.

**1)** Any protest to award a contract shall be in writing and shall be delivered so that it is received by the city manager not later than five (5) business days after announcement of the award or decision to award, whichever comes first. Otherwise any such protest shall be deemed to be waived.

**2)** Except for a protest of an emergency or sole source procurement, a protest of a city award or decision to award a contract may only be made by a person who submitted a bid or proposal for the procurement at issue and who was reasonably likely to have its proposal accepted but for the city's decision. In the case of an emergency or sole source

procurement, a protest may only be made by a person who can show that he was reasonably likely to have submitted a successful bid or proposal if the procurement had been other than emergency or sole source.

**3)** Protests shall only be granted if (1) the protestor has complied fully with this Sec. 18.1-6 and there has been a violation of law, the Lynchburg public procurement code, or mandatory terms of the solicitation that clearly prejudiced the protestor in a material way, or (2) a statute requires voiding of the decision.

**4)** The city manager shall issue a written decision on a protest within ten (10) days of its receipt by the city manager.

**5)** If the protest is denied, the protestor may only appeal the denial or otherwise contest or challenge procurement by then filing suit in the Lynchburg circuit court, Lynchburg, Virginia, and serving the city with such suit within ten (10) days of such denial. Otherwise, the city manager's decision shall be final and conclusive, and the protestor's right to appeal the denial or to otherwise contest or challenge the procurement shall be deemed to be waived.

**6)** The city should defer award of a contract where the decision to award has been protested unless there is a written determination by the city manager that proceeding without delay is necessary to protect the public interest or unless the bid or offer of the prospective award would expire.

**7)** The validity of a contract awarded and accepted in good faith shall not be affected by the fact that a protest or appeal is filed.

**8)** The exclusive relief allowed if a protest is granted is to void the decision being protested. If a contract has already been awarded and performance under the contract has begun, the contract need not be voided if not in the public interest to do so. Under no circumstances will any monetary amount be allowed to the protestor as part of any relief granted.

**9)** Strictly following these procedures shall be a mandatory prerequisite for protest of the city's award or decision to award a contract. Failure by a bidder to follow these procedures strictly shall preclude that bidder's protest and be deemed to constitute a waiver of any protest.

**b)** A protest may not be based upon the alleged non-responsibility of a person to whom the city awards or makes a decision to award a contract.

**19)** Drug Free Workplace: In accordance with Sec 2.2-4312 of the Virginia Code, during the performance of this contract, the Consultant agrees to (i) provide a drug-free workplace for the consultant's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the consultant that such consultant maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each sub-Consultant or vendor.

For the purpose of this section, "Drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Consultant, the employees whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

**20)** Right to audit: All contracts are subject to audit by Federal, State or City Personnel or their representatives at no cost to the City. Contractor agrees to retain all records, books and other documents relevant to this Contract and the funds expended hereunder for at least four (4) years after Contract acceptance, or as required by applicable law. Requests for audits shall be made in writing and



Contractor shall respond with all information requested within ten (10) calendar days of the date of the request.

**J. DEFAULT AND TERMINATION**

- 1) City's Rights in the Event of Default. Upon the occurrence of Consultant default, the City may, at its option, exercise concurrently or successively any one or more of the following rights and remedies:
  - a) Withhold payments that would otherwise be due, until the default has been cured.
  - b) Enjoin any breach or threatened breach by Consultant of any covenants, agreements, terms, provisions or conditions hereof.
  - c) Sue for the performance of any obligation, promise or agreement devolving upon Consultant for performance or for damages for the nonperformance thereof, all without terminating this Contract.
- 2) Notice of Cure: A cure letter is used when a contractor has failed to perform or deliver in accordance with the provisions of contract. Such notice provides the Contractor a period of time to correct or "cure" the deficiency and places Contractor on notice as to the consequences for failure to take the required corrective action. Such notice may be given orally or in writing. Notice of Cure informs the Contractor that non-conformance is a breach of contract and if the deficiency is not corrected within a stated number of days, the Public Body will terminate the contract for default and hold the Contractor liable for any excess costs.
- 3) All Remedies Cumulative. All rights and remedies granted to the City herein, and other rights and remedies which the City may have at law and in equity, are hereby declared to be cumulative and not exclusive, and the fact the City may have exercised any remedy without terminating this Contract shall not impair the City's rights thereafter to terminate or to exercise any other remedy herein granted or to which it may be otherwise entitled.
- 4) Force Majeure. Neither party shall be deemed to be in default of any provision of contract, or failure in performance, resulting from acts or events beyond the reasonable control of such party. The Contractor shall notify the City in writing as soon as Contractor knows, or should reasonably know, that a force majeure event has occurred that will delay completion of the scope of work. Said notification shall include reasonable proof required by the City to evaluate any Contractor request for relief. The City's decision regarding whether or not the Contractor is entitled to force majeure relief shall be final and binding on both parties. The Contractor is not entitled to damages, compensation, or reimbursement from losses incurred from any force majeure event.
- 5) Termination for Failure to Maintain Insurance. The City may terminate the contract immediately, without prior notice to the Contractor, if the Contractor fails to maintain the insurance required herein.
- 6) Termination for Convenience: The performance of work under contract may be terminated by the Public Body upon written notice to the Contractor without cause, for any reason in whole or in part; whenever it is determined that such termination is in the Public Body's best interest. In the event of such termination, the rights and obligations of the parties, which by their nature survive termination of services covered by a contract, shall remain in full force and effect after termination. In the event of such termination, the Contractor shall be paid for services rendered and approved up to the date of termination. The Contractor may submit any termination claim within 60 days after receipt of the notice of termination.
- 7) Termination for Nonpayment: In the event the Public Body fails to make payment in accordance with applicable standard payment terms, the Contractor may declare the Public Body in default and exercise any right to cure such default. If the Public Body fails to cure such default within 30 days of receiving such written notice, the Contractor may, by giving written notice to the Jurisdiction, terminate the contract and/or the applicable Scope of Work as of the end of such 30-day period on such date as is specified in such notice of termination.

## INSURANCE REQUIREMENTS

The contractor/vendor shall procure, maintain, and provide proof of insurance coverage for injuries to persons or damages to property which may arise from or in connection with the work performed on behalf of the City by the contractor, his agents, representative, employees, or subcontractor. Such coverage shall be maintained by the contractor/vendor for the duration of the contract period.

### **Broad Form Commercial General Liability:**

(Occurrence Form CG0001, Ed. 11/88): \$1,000,000 CSL, BI &PD

### Automobile Liability:

Code 1 "ANY AUTO" (Form CA0001 Ed. 6/92): \$1,000,000 CSL, BI &amp; PD

### Workers' Compensation: Statutory Amount

**Surety Bond:** Covering third party dishonesty in the amount of \$25,000.00

Please state your ability to comply with these requirements

	YES	NO
1. I have the necessary resources to implement the proposed changes		
2. I have the necessary skills to implement the proposed changes		
3. I have the necessary time to implement the proposed changes		
4. I have the necessary support to implement the proposed changes		
5. I have the necessary authority to implement the proposed changes		
6. I have the necessary knowledge to implement the proposed changes		
7. I have the necessary experience to implement the proposed changes		
8. I have the necessary motivation to implement the proposed changes		
9. I have the necessary commitment to implement the proposed changes		
10. I have the necessary resources to implement the proposed changes		
11. I have the necessary skills to implement the proposed changes		
12. I have the necessary time to implement the proposed changes		
13. I have the necessary support to implement the proposed changes		
14. I have the necessary authority to implement the proposed changes		
15. I have the necessary knowledge to implement the proposed changes		
16. I have the necessary experience to implement the proposed changes		
17. I have the necessary motivation to implement the proposed changes		
18. I have the necessary commitment to implement the proposed changes		

The insurance policies shall include or be endorsed to include the following provisions.

1. The city of Lynchburg, Virginia its officers/officials, employees, agents, and volunteers (the City) shall be added as "insured's" under the terms and conditions of the policies for liabilities which may arise out of the contractor/vendor's operations or activities in these projects.
2. Any deductibles or self-insured retentions applicable to required coverage's shall be paid by the contractor/vendor, and the City shall not be required to participate therewith.
3. The contractor/vendor shall agree to provide the City with 30 days written notice of any cancellation of or reduction in the required coverage's.
4. The insurance required hereunder shall be primary and any insurance or self-insurance maintained by the City shall be excess of the contractors/vendor's insurance and shall not contribute therewith.
5. Failure of the contractor/vendor to comply with any reporting provisions of the insurance policies required hereunder shall not affect coverage provided to the City.
6. All rights of subrogation against the City shall be waived.
7. The contractor/vendor shall provide the City with certificate of insurance with applicable endorsements effecting coverage's, signed by a person authorized by the insurance company to bind coverage on its behalf. Certificates of insurance shall be received by the City within 5 days of notice of intent to award. Please state ability to comply\_\_\_\_\_
8. All coverage's for subcontractors of the contractor/vendors, if any, shall be subject to all of the requirements stated herein.

**LIMITED LIABILITY FORM**

*All Prospective Firms Must Respond To The Following*

If a limited liability company, limited liability partnership, or a limited partnership indicate below:

Check one:

\_\_\_ Limited Liability Company

\_\_\_ Limited liability partnership

\_\_\_ Limited partnership

Have you registered with the State Corporation Commission, to conduct business in Virginia?

☐ Yes   ☐ No   If yes, State Corporation Commission # \_\_\_\_\_

Name(s) and address ('s) of the individuals that formed the limited liability organization:

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List who is authorized to execute contracts: \_\_\_\_\_

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If conducting business under an assumed business name, fill out the following information:

Name of assumed business: \_\_\_\_\_

Owner's name and address: \_\_\_\_\_

Registration date: \_\_\_\_\_ Expires: \_\_\_\_\_

If conducting business as a sole proprietorship, fill out the following information:

Individual's name liable for all obligations of business: \_\_\_\_\_

If you are a sole proprietor using an assumed name, please list below:

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Registration date: \_\_\_\_\_ Expires: \_\_\_\_\_